Section II. REMARKS

Acknowledgement of Allowance of Claims 22-27, 51-53 and 56

The allowance of claims 22-27, 51-53 and 56 in the June 17, 2005 Office Action is acknowledged.

Rejection of Claims on Reference Grounds, and Traversal Thereof

In the June 17, 2005 Office Action, claims 19-21 were rejected on new reference grounds, including:

- a rejection of claims 19 and 20 under 35 USC 102(b) as anticipated by Murayama et al. U.S. Patent 5,723,799 (hereafter "Murayama");
- a rejection of claims 19 and 21 under 35 USC 102(b) as anticipated by Schmitt U.S. Patent

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- a rejection of claims 19 and 21 under 35 USC 102(b) as anticipated by Schmitt U.S. Patent 3,972,726 (hereafter "Schmitt"); and
- a rejection of claims 19-21 under 35 USC 102(b) as anticipated by Harvey U.S. Patent 4,224,068 (hereafter "Harvey").

Such rejections are traversed in application to claims 19-21 as amended herein, in light of the ensuing remarks concerning the patentable distinction of amended claims 19-21 over the cited references of Murayama, Schmitt and Harvey.

Patentable Distinction of Claims 19-21 Over the Cited References

Independent claims 19 and 20 have been amended to delimit the metal particles in the respectively claimed methods to the following metals: ruthenium, rhodium, palladium, osmium, iridium, gold and platinum. There is no derivative basis in the cited Murayama, Schmitt or Harvey references for making a sintered porous metal matrix using particles comprising such metals.

Murayama describes a metal-based composite with oxide particle dispersion therein, in which metal-based ultrafine powders (with an average grain size of about 20 nm to 100 nm and a grain size distribution of about 5 nm to 300 nm and with the surface oxidized for handling) are rapidly sintered in vacuum, inert gas or a reducing atmosphere. The ultrafine powders with a grain size of about 50

nm or less to metal oxide are crystallized during such sintering and the oxygen on the surface of the ultrafine powders with a grain size of about 50 nm or more is removed.

Murayama discloses that the metal powders can be powders of nickel, cobalt, copper, iron, magnesium, titanium, molybdenum, tungsten, silver, zinc, aluminum, bismuth telluride compounds and lead telluride compounds.

Schmitt describes a method of making accumulator electrodes having a current conducting carrier skeleton and an active material for reversible electrochemical storage and restitution of hydrogen on charging and discharging. The active material can be a titanium-nickel hydride. The powder particles of the active material are at least partially covered with a hydrogen-permeable copper layer and are compressed and sintered (e.g., at 400°C) to form a porous electrode permeated with a sintered copper carrier skeleton of sintered copper coated on the active material particles.

Harvey describes a method of making a distributor rotor electrode in which dielectric particles are dispersed in an electrically conductive metal matrix to suppress RF intereference. In the disclosed method, a mixture of silica and copper oxide is fused into a solid material which is then comminuted into irregular-shaped powder particles having a size of 50 microns or less, and constituted by a microscopic interspersion of a silica-based phase and a copper oxide-based phase. These powder particles are combined with a powder of an electrically conductive metal, e.g., copper, to form a uniform second mixture containing about 0.5 to 15 weight percent silica, and the second mixture is compressed and sintered, e.g., at 925°C, to yield the rotor electrode.

"Anticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W.L. Gore & Assocs. v. Garlock*, 721, F.2d 1540, 220 USPQ 303 at 313 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984).

Since each of the separately cited Murayama, Schmitt and Harvey references fails to teach or suggest making a sintered porous metal matrix using particles comprising ruthenium, rhodium, palladium, osmium, iridium, gold or platinum, and since the claims 19-21 require particles comprising such metals, Murayama, Schmitt or Harvey cannot anticipate claims 19-21 and withdrawal of the rejections thereof is respectfully requested.

CONCLUSION

Claims 19-27, 51-53 and 56 as amended herein and now pending in the application, are patentably distinguished over the art and in form and condition for allowance. Issue of a Notice of Allowance for the application therefore is respectfully requested.

If any issues remain outstanding, incident to the formal allowance of the application, the Examiner is requested to contact the undersigned attorney at (919) 419-9350 to discuss same, in order that this application may be allowed and passed to issue at an early date.

Respectfully submitted,

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